

REMARKS

INTRODUCTION

In accordance with the foregoing, claims 1, 4-9 and 16 have been amended. No claims have been canceled or added. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1-17 are pending and under consideration. Reconsideration is respectfully requested.

DOUBLE PATENTING

At page 3 of the Office Action, claims 1 and 16 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 15 of U.S. Patent No. 6,704,194 issued to Koo ("Koo"). At page 4 of the Office Action, claims 1, 4, 11, 12, and 16 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-30 of Koo in view of U.S. Patent No. 6,122,152 issued to Goto ("Goto").

It is respectfully requested that this rejection be held in abeyance until the application is otherwise in a condition for allowance.

REJECTION UNDER 35 U.S.C. §102 OF CLAIMS 1, 4, 16

At page 4 of the Office Action, claims 1, 4, and 16 were rejected under 35 U.S.C. §102(e) in view of Koo. Claims 1, 4 and 16 have been amended for clarification purposes. However, as the cited art may still relate to claims as amended, this rejection is traversed and reconsideration is respectfully requested for at least the following reasons.

Regarding claims 1 and 16, the rejection is respectfully traversed because Koo fails to teach or suggest:

a controller supplying electric power to the computer if the latch
switch generates a contact signal,

as recited in claim 1, for example.

In contrast to the above recitation, Koo is directed to a portable computer system improved in a structure of an LCD switch controlling power supplied to an LCD backlight. In other words, Koo is directed to controlling an LCD backlight. Accordingly, the Applicants respectfully submit that Koo fails to teach or suggest the controller as it is recited in claim 1. The Applicants further submit that, although of varying scope, claim 16 recites a similar feature.

The Applicants respectfully submit that since Koo fails to teach or suggest all of the features of claims 1 and 16, these claims are allowable over Koo. Thus, withdrawal of the 102 rejection is respectfully requested.

Regarding the rejection of claim 4, this claim depends on independent claim 1, and is therefore believed to be allowable for at least the reasons noted above.

REJECTION UNDER 35 U.S.C. §102 OF CLAIMS 1 AND 11

At page 6 of the Office Action, claims 1 and 11 were rejected under 35 U.S.C. §102(b) in view of Goto. Claim 1 has been amended for clarification purposes. However, as the cited art may still relate to claim 1, and with respect to claim 11, the rejection is traversed and reconsideration is respectfully requested for at least the following reasons.

Regarding claim 1, the rejection is respectfully traversed because Goto fails to teach or suggest:

- a latch switch generating a contact signal when the latch member is at the releasing position; and
- a controller supplying electric power to the computer if the latch switch generates a contact signal.

Goto is directed to an information processing device or electronic device suitable for portable use. Goto discusses a switch mechanism and mentions that

- possible examples of the signal to be switched on and off by the switch mechanism SM are a control signal for the display device or the display portion, a signal for switching on an off a backlight for the display unit 18, for example, a signal for switching on and off a main power of the device, and a signal for performing suspend and resume processing.

Goto, col. 9, lines 13-22. Regarding the switch, Goto notes that it "includes a switch 56 having a displaceable switching pin (or switch member) 56A for determining on and off positions, and a movable member 58 for transmitting a force exerted by the sliding operation of the hook member 28 to the switching pin 56A."

In contrast, claim 1 recites "a latch switch generating a contact signal when the latch member is at the releasing position." Claim 1 further recites regarding the contact signal, "a controller supplying electric power to the computer if the latch switch generates a contact signal." Accordingly, the Applicants respectfully submit that Goto fails to teach or suggest the latch switch and the controller as recited in claim 1.

Regarding claim 11, the rejection is respectfully traversed because Goto fails to teach or suggest:

moving a latch member of the latch from a latching position to a releasing position; and

initiating a powering of the computer when the latch member is at the releasing position.

As noted above and in contrast to the above-recited features of claim 11, Goto merely mentions that:

possible examples of the signal to be switched on and off by the switch mechanism SM are a control signal for the display device or the display portion, a signal for switching on an off a backlight for the display unit 18, for example, a signal for switching on and off a main power of the device, and a signal for performing suspend and resume processing.

Goto, col. 9, lines 13-22. Goto further goes on to describe the structure of the switch mechanism. Accordingly, the Applicants respectfully submit that Goto fails to teach or suggest the moving and initiating operations, as recited in claim 11.

The Applicants respectfully submit that since Goto fails to teach or suggest all of the features of claims 1 and 11, these claims are allowable over Goto. Thus, withdrawal of the 102 rejection is respectfully requested.

REJECTION UNDER 35 U.S.C. §102 OF CLAIMS 11-13 AND 15

At page 7 of the Office Action, claims 11-13 and 15 were rejected under 35 U.S.C. §102(e) in view of U.S. Patent No. 6,535,380 issued to Lee et al. ("Lee"). At least for the reasons set forth herein, this rejection is traversed and reconsideration is respectfully requested.

The rejection is respectfully traversed because Lee fails to teach or suggest:

initiating a powering of the computer when the latch member is at the releasing position.

Lee is directed to a portable computer having an unlatching member movable in either of two opposite directions to permit opening of a lid of the portable computer. The Office Action states that the above-recited feature of claim 1 is inherent in Lee. Specifically, the Office Action states: "Inherent – Open lid and push main power button". *Office Action*, page 7, line 16. The Applicants respectfully submit that the Office Action's interpretation is unreasonable in that it affords no patentable weight to the above recited feature. Accordingly, the Applicants respectfully submit that Lee cannot properly be relied upon for teaching or suggesting the initiating operation, as recited.

The Applicants respectfully submit that since Lee fails to teach or suggest all of the features of claim 11, this claim is allowable over Lee. Thus, withdrawal of the 102 rejection is respectfully requested.

Regarding the rejection of claims 12, 13 and 15, these claims depend on independent claim 11, and are therefore believed to be allowable for at least the reasons noted above.

REJECTION UNDER 35 U.S.C. §103 OF CLAIMS 4, 7, AND 10

At page 8 of the Office Action, claims 4, 7 and 10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Goto in view of Japanese Patent Document No. JP405290622 by Takuya ("Takuya"). At least for the reasons set forth herein, this rejection is traversed and reconsideration is respectfully requested.

Claims 4, 7 and 10 depend directly or indirectly on independent claim 1. The Examiner states that claims 4, 7 and 10 are rejected over Goto as applied to claims 1 or 11 above, and further in view of Takuya. However, as noted above, Goto fails to teach or suggest all of the features of claim 1. The Applicants respectfully submit that Takuya fails to make up for this deficiency. Accordingly, the Applicants respectfully submit that at least because neither Goto or Takuya, individually or combined, teach or suggest all of the features of independent claim 1, the proposed combination of Goto and Takuya fails to establish a prima facie case of obviousness. Accordingly, independent claim 1 and dependent claims 4, 7 and 10 are deemed to be allowable over the art of record. Therefore, withdrawal of the §103 rejection is respectfully requested.

REJECTION UNDER 35 U.S.C. §103 OF CLAIM 14

At page 10 of the Office Action, claim 14 was rejected under 35 U.S.C. §103(a) as being unpatentable over Lee¹. At least for the reasons set forth herein, this rejection is traversed and reconsideration is respectfully requested.

Claim 14 depends from claim 13 which depends from independent claim 11. As noted above, Lee fails to teach or suggest all of the features of claim 11. Accordingly, the Applicants respectfully submit that at least because Lee fails to teach or suggest all of the features of independent claim 11, Lee fails to establish a prima facie case of obviousness. Accordingly, dependent claim 14 is deemed to be allowable over the art of record. Therefore, withdrawal of the §103 rejection is respectfully requested.

Further, the Examiner states that he

takes Official Notice of the fact that the latch member contacts a protrusion, in the latch and in the movable zone of the latch member, the latch member is prevented for [sic] proceeding to the releasing position without sufficient force to move the latch member past the protrusion such that the latch member is in the intermediate position is an old and well-known technique in construct [sic] a multi-function switch.

The Applicants respectfully traverse the Examiner's statement and demand the Examiner produce authority for the statement. The Applicant specifically points out the following errors in the Examiner's action.

First, the Examiner uses common knowledge as the principal evidence for the rejection. As explained in the M.P.E.P. § 2144.03(E):

any facts so noticed should ... serve only to 'fill in the gaps' in an insubstantial manner which might exist in the evidentiary showing made by the Examiner to support a particular ground for rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based.

Second, the noticed fact is not considered to be common knowledge or well-known in the art. In this case, the limitation is not of notorious character or capable of instant and unquestionable demonstration as being well-known. Instead, this limitation is unique to the present invention. See M.P.E.P. § 2144.03(A) ("the notice of facts beyond the record which may

¹ The Office Action states: "Claim 14 is rejected under 35 U.S.C. §103(a) as being unpatentable over as applied to claim 13 above." The Applicants have interpreted this rejection to be based on Lee. In the event this assumption is incorrect, the Applicants respectfully request that the next Office Action NOT be made final.

be taken by the Examiner must be "capable of such instant and unquestionable demonstration as to defy dispute").

Third, there is no evidence supporting the Examiner's assertion. See M.P.E.P. § 2144.03(B) ("Ordinarily, there must be some form of evidence in the record to support an assertion of common knowledge").

Fourth, it appears that the Examiner also bases the rejection, at least in part, on personal knowledge. The Examiner is required under 37 C.F.R. § 1.104(d)(2) to support such as assertion with an affidavit when called for by the Applicant. Thus, Applicant calls upon the Examiner to support such assertion with an affidavit, or withdrawal the same.

REJECTION UNDER 35 U.S.C. §103 OF CLAIM 16

At page 10 of the Office Action, claim 16 was rejected under 35 U.S.C. §103(a) as being unpatentable over Goto. At least for the reasons set forth herein, this rejection is traversed and reconsideration is respectfully requested.

The rejection is respectfully traversed because Goto fails to teach or suggest:

a latch switch adjacent to the latch member, such that the latch switch contacts the latch member and generates a contact signal when the latch member is at the releasing position.

The Examiner admits that Goto fails to teach or suggest this feature. Specifically, the Office Action states

Goto does not teach the latch switch adjacent to the latch member, such that the latch switch contacts the latch member when the latch member is at the releasing position.

Office Action, page 11, lines 2-3.

The Applicants respectfully submit that the rejection fails to establish a prima facie case of obviousness. To establish a prima facie case of obviousness, three basic criteria must be met. MPEP 2142. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *Id.* Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *Id.*

The Applicants respectfully submit that at least because Goto fails to teach or suggest all of the features of claim 16, Goto, by itself, cannot be properly relied upon to establish a prima

facie case of obviousness. Accordingly, claim 16 is deemed to be allowable over the art of record. Therefore, withdrawal of the §103 rejection is respectfully requested.

ALLOWABLE SUBJECT MATTER

The Applicants acknowledge with appreciation that claims 2, 3, 5, 6, 8, 9 and 17 have been found to contain allowable subject matter. However, the Applicants respectfully submit that independent claims 1 and 16 are allowable as set forth above. Accordingly, claims 2, 3, 5, 6, 8, 9 and 17 are believed to be allowable as is.

CONCLUSION

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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